

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

Saul Dorta-Hernandez,

Defendant.

S3 21 Cr. 640 (PKC)

Saul Dorta-Hernandez,

Petitioner

24 Civ. 2773 (PKC)

v.

United States of America,

Respondent.

Order

WHEREAS Saul Dorta-Hernandez has moved for relief from his convictions pursuant to 28 U.S.C. § 2255 on grounds of ineffective assistance of counsel; and

WHEREAS the Government, after reviewing the motion papers, has concluded that the testimony of Dorta-Hernandez’s former counsel, Jacqueline E. Cistaro, Esq., and Thomas Francis Dunn, Esq. (“Counsel”), will be needed in order to allow the Government to respond to the motion; and

WHEREAS the Court, after reviewing the motion papers, is satisfied that the testimony of Counsel is needed in order to allow the Government to respond to the motion; and

WHEREAS the Court is cognizant that, absent Court order or informed consent, ethical concerns may inhibit Counsel from disclosing confidential information relating to a prior client even in the absence of a privilege, *see, e.g.*, ABA Standing Comm. on Ethics and Prof. Responsibility Formal Op. 10-456 (July 14, 2010), *Disclosure of Information to Prosecutor When Lawyer’s Former Client Brings Ineffective Assistance of Counsel Claim*; and

WHEREAS by making the motion, Dorta-Hernandez has waived the attorney-client privilege as a matter of law; and

WHEREAS Dorta-Hernandez has provided a written waiver of attorney-client privilege authorizing Counsel to give testimony, in the form ordered by the Court, relating to his motion to set aside his convictions on the ground of ineffective assistance of counsel;

IT IS HEREBY ORDERED that Counsel shall give sworn testimony, in the form of an affidavit, addressing the allegations of ineffective assistance of counsel made by Dorta-Hernandez; and

IT IS FURTHER ORDERED that the Government shall file an answer or other pleadings in response to the motion, together with the affidavit of Counsel, by July 29, 2024.

Dated: New York, New York

May 30, 2024



HON. P. KEVIN CASTEL
UNITED STATES DISTRICT JUDGE